

## § 530.11

error in transmitting a service contract filing or an amendment thereto is permitted to file a Corrected Transmission ("CT") of that filing within 48 hours of the date and time of receipt recorded in SERVCON (excluding Saturdays, Sundays and legal public holidays). This time-limited permission to correct an initial defective service contract filing is not to be used to make changes in the original service contract rates, terms or conditions that are otherwise provided for in paragraphs 530.10(b) and (c) of this section. The CT tab box in SERVCON must be checked at the time of resubmitting a previously filed service contract, and a description of the corrections made must be stated at the beginning of the corrected service contract in a comment box. Failure to check the CT box and enter a description of the correction will result in the rejection of a file with the same name, since documents with duplicate file names or service contract and amendment numbers are not accepted by SERVCON.

(e) *Cancellation.* (1) An account may be adjusted for events and damages covered by the service contract. This shall include adjustment necessitated by either liability for liquidated damages appearing in the service contract as filed with the Commission under § 530.8(b)(7), or the occurrence of an event described below in paragraph (d)(2) of this section.

(2) In the event of cancellation as defined in § 530.10(a)(3):

(i) Further or continued implementation of the service contract is prohibited; and

(ii) The cargo previously carried under the contract shall be re-rated according to the otherwise applicable tariff provisions.

(f) If the amendment, correction or cancellation affects an essential term required to be published under § 530.12 of this part, the statement of essential terms shall be changed as soon as possible after the filing of the amendment to accurately reflect the change to the contract terms.

[64 FR 11206, Mar. 8, 1999, as amended at 64 FR 23793, May 4, 1999; 67 FR 39860, June 11, 2002; 68 FR 43327, July 22, 2003; 70 FR 10330, Mar. 3, 2005]

## 46 CFR Ch. IV (10–1–12 Edition)

### § 530.11 [Reserved]

### Subpart C—Publication of Essential Terms

#### § 530.12 Publication.

(a) *Contents.* All authorized persons who have a duty to file service contracts under § 530.5 are also required to make available to the public, contemporaneously with the filing of each service contract with the Commission, and in tariff format, a concise statement of the following essential terms:

- (1) The port ranges:
  - (i) Origin; and
  - (ii) Destination;
- (2) The commodity or commodities involved;
- (3) The minimum volume or portion; and
- (4) The duration.

(b) *Certainty of terms.* The terms described in paragraph (a) of this section may not:

- (1) Be uncertain, vague or ambiguous; or
- (2) Make reference to terms not explicitly detailed in the statement of essential terms, unless those terms are contained in a publication widely available to the public and well known within the industry.

(c) *Location*—(1) *Generally.* The statement of essential terms shall be published as a separate part of the individual carrier's automated tariff system.

(2) *Multi-party service contracts.* For service contracts in which more than one carrier participates or is eligible to participate, the statement of essential terms shall be published:

(i) If the service contract is entered into under the authority of a conference agreement, then in that conference's automated tariff system;

(ii) If the service contract is entered into under the authority of a non-conference agreement, then in each of the participating or eligible-to-participate carriers' individual automated tariff systems, clearly indicating the relevant FMC-assigned agreement number.

(d) *References.* The statement of essential terms shall contain a reference to the "SC Number" as described in § 530.8(d)(1).

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(e) *Terms.* (1) The publication of the statement of essential terms shall accurately reflect the terms as filed confidentially with the Commission.

(2) If any of the published essential terms include information not required to be filed with the Commission but filed voluntarily, the statement of essential terms shall so note.

(f) *Agents.* Common carriers, conferences, or agreements may use agents to meet their publication requirements under this part.

(g) *Commission listing.* The Commission will publish on its website, *www.fmc.gov*, a listing of the locations of all service contract essential terms publications.

(h) *Updating statements of essential terms.* To ensure that the information contained in a published statement of essential terms is current and accurate, the statement of essential terms publication shall include a prominent notice indicating the date of its most recent publication or revision. When the published statement of essential terms is affected by filed amendments, corrections, or cancellations, the current terms shall be changed and published as soon as possible in the relevant statement of essential terms.

[64 FR 11206, Mar. 8, 1999, as amended at 64 FR 23793, May 4, 1999]

### Subpart D—Exceptions and Implementation

#### § 530.13 Exceptions and exemptions.

(a) *Statutory exceptions.* Service contracts for the movement of the following, as defined in section 3 of the Act (46 U.S.C. 40102), § 530.3 or § 520.2 of this chapter, are excepted by section 8(c) of the Act (46 U.S.C. 40502) from the requirements of that section, and are therefore not subject to the requirements of this part:

- (1) Bulk cargo;
  - (2) Forest products;
  - (3) Recycled metal scrap;
  - (4) New assembled motor vehicles;
- and

- (5) Waste paper or paper waste.

(b) *Commission exemptions.* Exemptions from the requirements of this part are governed by section 16 of the Act (46 U.S.C. 40103) and Rule 67 of the Commission's Rules of Practice and

Procedure, § 502.67 of this chapter. The following commodities and/or services are exempt from the requirements of this part:

(1) *Mail in foreign commerce.* Transportation of mail between the United States and foreign countries.

(2) *Department of Defense cargo.* Transportation of U.S. Department of Defense cargo moving in foreign commerce under terms and conditions negotiated and approved by the Military Transportation Management Command and published in a universal service contract. An exact copy of the universal service contract, including any amendments thereto, shall be filed with the Commission as soon as it becomes available.

(c) *Inclusion of excepted or exempted matter.* (1) The Commission will not accept for filing service contracts which exclusively concern the commodities or services listed in paragraph (a) or (b) of this section.

(2) Service contracts filed with the Commission may include the commodities or services listed in paragraph (a) or (b) of this section only if:

(i) There is a tariff of general applicability for the transportation, which contains a specific commodity rate for the commodity or service in question; or

(ii) The service contract itself sets forth a rate or charge which will be applied if the contract is canceled, as defined in § 530.10(a)(3).

(d) *Waiver.* Upon filing a service contract pursuant to paragraph (c) of this section, the service contract shall be subject to the same requirements as those for service contracts generally.

[64 FR 23793, May 4, 1999, as amended at 74 FR 50724, Oct. 1, 2009]

#### § 530.14 Implementation

(a) *Generally.* Performance under a service contract or amendment thereto may not begin before the day it is effective and filed with the Commission.

(b) *Prohibition or suspension.* When the filing parties receive notice that an initial or amended service contract has been prohibited under section 9(d) (46 U.S.C. 40704) or suspended under section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)):